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Marshall, Civil Rights, and the Court

by Murray N. Rothbard

In a memorable line in *Cat on a Hot Tin Roof*, Big Daddy announces, "Mendacity, ah smell mendacity." Mendacity, thy name is Washington, D.C., but even for the nation's capital the stench of mendacity and baloney pervaded the air at the end of June when Mr. Justice Thurgood Marshall announced his retirement. The encomiums, the blown-up hokum were truly loathsome. "The greatest jurist of the twentieth century"; the "hero"; the "great dissenter"; the man of "quick wit"; the "conscience of the Court." What garbage! Mr. Justice Marshall was and is a fool and a cretin, his "dissents" and opinions mere leftist gabble thinly disguised as law; his "quick wit" the sputterings of a cantankerous simpleton. Marshall contributed nothing to the Court except a warm leftist body, and in that way added his mite to the destruction of our rights and our liberties at the hands of a malignant left-liberalism.

It is the mark of the degeneration of modern conservatism that many leading conservatives added their own orgy of praise to the expected twaddle of left-liberals. On *Crossfire*, Congressman Henry Hyde of Illinois, a leading voice of conservatism, gushed about how much he admired Justice Marshall and how wonderful was the *Brown v. Board of Education* decision that he had helped bring about as a counselor. All about us, we were spared nothing.

Before turning to the legal legacy of Mr. Justice Marshall, let us examine for a bit his wit and wisdom. Let loose of his law clerks, Marshall was really something. Last year, when Judge Souter was nominated for the Court, Marshall, asked what he thought in a TV interview, sputtered his rage: "If you can't say something good about a dead person, don't say it." The startled interviewer responded: "But President Bush isn't dead." "No, he dead," Marshall replied. An example of his "quick wit"?

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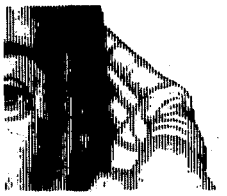
An admiring *New York Times* reporter wrote upon Marshall's retirement: "He is the least stultified of any recent member of the Court," whatever that is supposed to mean. Trying to explain how Marshall is not "stultified," the *Times* man explained that Marshall once greeted Chief Justice Warren Burger as follows: "What's shakin', Chiefie baby?" Well! Mr. Justice Burger's reply is not recorded, but I like to think it went

(Cont. page 3, col. 3)



THE EAR

by Sarah Barton

America's Only Libertarian Gossip Columnist

Definition of *Chutzpah*: A prominent Modal, engaged in a contract dispute with another libertarian, wrote to Murray, claiming that according to Rothbardian contract theory, the other guy owed the Modal money. Murray replied, pointing out that the Modal is wrong and that this was not in his view an enforceable contract. At which point Modal (anyway, one of those annoying types who *always* has to get in the last word) wrote Murray a long letter, claiming that he was right and Murray was wrong in applying Murray's own theory. Now, is that major league *chutzpah*, or what?

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Earthquake in the Kochtopus! Boss Charles Koch is furious at the Institute for Humane Studies, claiming that its "productivity is zero." Charles, who is now inter-

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(THE EAR cont. from P.1)

viewing candidates for IHS president in Wichita, says he wants a "hard-headed business type" who will make IHS a teaching center for "market-based management."

After listening to Charles' anti-IHS blast, several of the candidates found themselves defending the great old libertarian organization founded by anarcho-capitalist F.A. Harper. But Charles and Richie Fink, who is leading the anti-IHS chorus among the staff, are determined to remake IHS in a new image. Charles may even purge IHS giants Leonard Liggio (whom he has already kicked upstairs) and Walter Grinder. Shame!

It is also shameful that the talented ex-IHS prez John Blundell is now just a Wichita flunky for Richie. Charles, angry at IHS, kicked John upstairs. (Note to Kochologists: the once-omnipotent George Pearson is now a virtual nobody, in part because of his long-time identification with IHS.)

Non-shame department: Charles is also enraged at Tom Palmer and his "East-European extravaganza." Charles is suspicious that the participants might have been chosen for other than ideological reasons.

In a related development, Charles plans to separate his Market Process Center at George Mason University from the economics department and merge it into IHS, preparatory to liquidating it. Charles is still upset at Jack High and Don Lavoie for having end-runned him with the GMU administration two years ago, and because Richie-disciple Jerome Ellig, director of the center, has been barred from a tenure-track job by Nobel laureate James Buchanan. Jim refused to exempt Jerry from the rule that a GMU PhD must teach elsewhere before joining the permanent faculty.

Since Richie, under Charles, now holds total power in Wichita, what does that mean for his great enemy Ed Crane? It can't help that Charles—on the advice of Richie—ordered Ed not to hire any more foreign policy people at Cato, and that Ed then hired the controversial Israel critic Sheldon Richman, whom Richie had fired from IHS as a "troublemaker."

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We make the big time again! Syndicated columnist Charley Reese wrote a wonderful article about Murray's May *RRR* Kuwait article, introducing it this way: "If you think I tend toward iconoclastic, you ought to read the *Rothbard-Rockwell Report*, a newsletter published by the Center for Libertarian Studies. Rothbard is Professor Murray N. Rothbard, a venerable libertarian philosopher and scholar, and Rockwell is Llewellyn H. Rockwell, Jr., a young man with a brain and a pen as sharp as a samurai sword. If either of these gentlemen have any sacred cows, I haven't discovered them. They seem to stick strictly to principles." Charley is one of the heroes of the right-wing anti-Gulf War movement, and a modern Mencken. Praise from him is therefore doubly sweet. Thanks, Charley!

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Every new employee at the Cato Institute, and almost anyone passing in front of their D.C. building, gets an impassioned talk from Ed Crane's close chum, veep Dave Boaz, on the evils of the two Rs.

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Howie Rich is planning an anti-paleolibertarian conference. Speakers include George "The Case Against God" Smith, the historian Ralph Raico, and catalog copywriter Roy Childs. Howie plans to rent FEE, a paleo outfit if ever there was one, for the occasion.

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An anti-paleo coalition is outlined in a recent letter by Ed Crane. Against our New Fusionism of anti-statist conservatives and culturally conservative libertarians, Ed joins "civil libertarians (such as Nadine Strossen, the new president of the ACLU [and star lecturer at the Cato summer conference]), classical liberals such as the Cato Institute," and liberal Republicans like "Pete DuPont." What do these three groups have in common? Non-interventionist foreign policy? No. Free market economics? No. Opposition to the leviathan state? No. Approval of moral and cultural decay? Yes.

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Mark Skousen and Bill Bradford have had a falling out. Bill was phoning Mark virtually every day to pressure him to run for president on the LP ticket. Mark now denounces Bill as "a pest" and refuses to take his calls.

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Why Americans Hate Politics by *Washington Post* reporter E.J. Dionne contains a fascinating history of modern libertarianism, and describes—for the first time in a book—the role of the Kochtopus,

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even using that handy description.

Charles Koch is the sort of billionaire who pays PR people to keep him *out* of print, and since E.J. got his information from Ed Crane, Charles is fuming. Richie Fink, never shy about using any lever in his efforts to oust Ed, reminds Charles about the book every chance he gets.

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An English professor at Smith College says he was interested in libertarianism in the early 1970s...until he was invited to a joint Massachusetts Libertarian Party - North American Man-Boy Love Association conference.

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Richard Kostelanetz, senior editor of *Liberty* magazine, regularly denounces the National Endowment for the Arts. Not as an immoral, tax-funded boondoggle, but for not giving enough money to avant-garde artists like...him! Richard, a Modal Libertarian, once placed a collect call to a real magazine about an "emergency." After hearing him out (Richard was upset that his article wasn't published), the editor asked, "Since when do New York operators have such thick accents?" "I'm calling from Munich," said Richard. "So long" said the editor, who later received—and refused—a collect Richard call from Latin America.

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A young libertarian answered Bill Bradford's ad in *Liberty* for an editorial assistant, and they agreed to $1,000 a month. But when the young man trekked to Port Townsend, Bradford explained that, of course, he could not pay that much to start: "Perhaps in six months or so, when you have proven yourself..."

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John Hix, the convention maven of California Republicanism (and occasionally Libertariansm), writes about "the world-famous *Rothbard-Rockwell Report*. Beyond the meat and potatoes from you two, I find the libertarian gossip by Sarah Barton delightful." But then, John has *always* had good taste. In his last LP venture, he managed Ron Paul's Operation Wounded Knee against Russell Means.

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Dick Boddie's campaign for the LP presidential nomination is picking up steam, and money and delegates. Could he actually beat Andre Marrou? The race is wide open, especially since Boddie campaign manager Chuck Geschlider is set to expose some Marrou shenanigans.

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I wouldn't want to say that R. Emmett Tyrell, Jr., editor of the *American Spectator*, has a high-pitched voice, but when he speaks, dogs bark for miles around.

A few years ago they were barking at the Philadelphia Society, when in a disjointed squeech, Bob announced, several times, that he was proud to be a neocon. The leading neocons there, including Mike Joyce of the Bradley Foundation, were furious, and since then, Bob's funding has slowly dried up. Bob, not one of the higher-level trusties, gets no respect. It's why Ben Wildavsky writes for *AS*, but not Aaron; John Podhoretz, but not Norman. Bob now whines that after all he's done for them, the neocons are letting his magazine go down the drain. ●

(MARSHALL, cont. from P.1)

something like this: "You, Thoroughgood [Marshall's original first name], you shuckin' and jivin' mutha."

Thurgood Marshall first achieved acclaim by winning cases before the Court as chief counsel of the NAACP Legal Defense Fund. It is well known, however, that these accomplishments, such as they are, were not really his own. Marshall was the needed colored front man for the smart white lawyers, notably Jack Greenberg, who actually ran this successful separate legal arm of the NAACP. Setting aside *Brown* for a moment, these cases spearheaded the disastrous "civil rights" revolution against property rights in this country—for example, the outlawing of racial covenants in the renting and sale of residential real estate. On the Court, Marshall helped in the catastrophic imposition of forced school busing, a policy that drove whites out of the big inner cities and made those cities a burned-out wasteland. Marshall's contention that the death penalty is unconstitutional as "cruel and unusual punishment" can only be considered idiotic, countered by the well-known fact that the death penalty has been around from time immemorial, and was certainly "usual" at the time of the passage of the Constitution. It was only *made* unusual in recent years because of the temporarily nutty attitude of the Court, including Mr. Justice Marshall.

The "Civil Rights" Trap

On the entire question of legally and judicially imposed "civil rights," we have been subjected

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to a trap, to a shell game in which "both sides" adopt the same pernicious axiom and simply quarrel about interpretation within the same framework. On the one side, left-liberalism, which in the name of equality and civil rights, wants to outlaw "discrimination" everywhere, has pushed the process to the point of virtually mandating representational quotas for allegedly oppressed groups everywhere in the society, be it jobs and promotions, entry into private golf clubs, or in legislatures and among the judiciary. But the Official Conservative opposition, which includes not only neo-cons but also regular conservatives, conservative legal foundations, and Left-libertarians, adopts the self-same axiom of civil rights and equality. In the name of the alleged "original" civil rights vision of Martin Luther King, conservatives also want to outlaw discrimination in jobs and housing, and to allow federal courts to mandate gerrymandering of electoral districts. But while Official Conservatives fully endorse outlawing racial and other discrimination, they want to stop there, and claim that going beyond that to mandating affirmative action measures and quotas is perverting the noble original civil rights ideal.

A typical expression of this view is the *Wall Street Journal's* editorial on Marshall's resignation. After hailing Marshall and the other "heroes'" achievements, including *Brown*, and the original civil rights ideal mandating "fundamental fairness in the nation's civic life," the *Journal* laments that Marshall and the rest of the civil rights movement have tragically gone beyond that doctrine and come "precariously close to approving quotas." The *Journal* also hastens to assure left-liberals and everyone else that Marshall's "achievement" of coerced equality for blacks is "not in danger" but a "permanent legacy." [*WSJ*, June 18]

The *Journal* is right about one thing. It inadvertently gives the lie to the media nonsense, trumpeted everywhere, about the "move of the pendulum" back to conservatism on the Court as against the old left-liberal position, as well as all the wailing about the heroic and rugged wait for the next left-liberal turn. There *is* no pendulum, precisely because the civil rights revolution is perfectly safe from the modern conservatives on the Court. The Marshall "legacy" may not be "permanent," but it has certainly nothing to fear from *this* group of turkeys or from anyone else whom President Bush is likely to nominate.

Anti-discrimination laws are evil because they run roughshod over the *only* fundamental natural right: property.

The original sin of "civil rights," which would have been perfectly understood by such "old conservatives" as the much maligned Nine Old Men who tried to block the measures of the New Deal, is that anti-discrimination laws or edicts of any sort are evil because they run roughshod over the *only* fundamental natural right: the right of everyone over his own property.

Every property owner should have the absolute right to sell, hire, or lease his money or other property to anyone whom he chooses, which means he has the absolute right to "discriminate" all he damn pleases. If I have a plant and want to hire only six-foot albinos, and I can find willing employees, I should have the right to do so, even though I might well lose my shirt doing so. (Of course I should *not* have the right to force the taxpayers to bail me out after losing my shirt.) If I own an apartment complex and want to rent only to Swedes without children, I should have the right to do so. Etc. Outlawing such discrimination, and restrictive covenants upholding it, was the original sin from which all other problems have flowed. Once admit that principle, and everything else follows as the night the day. Once concede that it is right to make it illegal for me to refuse to hire blacks (or substitute any other group, ethnic or gender or whatever that you wish), then left-liberalism is far more logical than official conservatism. For if it is right and proper to outlaw my discriminating against blacks, then it is just as right and proper for the government to figure out if I am discriminating or not, and in that case, it is perfectly legitimate for them to employ quotas to test the proposition.

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Current conservatives say it is OK to outlaw discrimination if such a result is *intended* by employers or landlords, but that it is monstrous and illegitimate for the government to use statistics and other objective measures to figure out whether discrimination exists. Hence the spectre of quotas. But how can we figure out anyone else's subjective intent anyway? Given the premise of outlawing discrimination, then mandatory quotas, despite the undoubted horrors they bring in their wake, make perfect sense. It is not "going too far" that causes the trouble. The problem is not the *abuse* of the anti-discrimination axiom; the problem is the axiom itself. Nothing will help except challenging the basic axiom and reversing the "civil rights" revolution. Libertarians and conservatives who have any spunk left must drop their blinders and call not for "the original King equality" or the original civil rights ideal, but for throwing over the entire structure and restoring the absolute right of private property. "Freedom" must mean the freedom to discriminate.

The *Brown* decision was rotten law because it was not law at all, but the supposed "science" of sociology.

Left-Libertarians and the Brown Decision

Much of this will be endorsed by Left-libertarians, at least in theory, as opposed to political practice. (When have you heard LP candidates actually sounding the call for the abolition of anti-discrimination laws?) Most libertarians will, in theory, concede that employers and landlords should have the right to discriminate for or against any given group. The problem for libertarian theory is public property, government operations. Left-libertarians believe that government, as an owner of any sort of enterprise, has no right to treat it as an enterprise. Hence, the Gingell position endorsing the ACLU view that public libraries, being governmental institutions, have no right to kick smelly bums out of the library. And hence the view that the government has no right to kick bums who are smelling up the streets and harassing peaceful citizens off those streets. On that basis, Left-libertarians endorse the *Brown* decision, which mandated that public schools in the South, which had used racial segregation for over half a century, were violating the U.S. Constitution because "separate" could not be "equal." Libertarians don't care one way or another about the Constitution; they have endorsed *Brown* because of their view that somehow it is a matter of high principle that everyone must have some sort of "equal access" to government facilities; whether race in public schools or smelly bums in public libraries.

But why? All of libertarian political thought follows from the non-aggression principle: that no one, including the government, can aggress against someone else's person or property. Since, according to libertarian theory, there *should be no* government property, since it is all derived from coercion, how does *any* principle whatever of government property use follow from libertarian theory? The answer is, it doesn't. On the question of what to do about government property, libertarians, apart from calling for privatization, are set adrift without a rudder. They are set adrift, in short, with nothing but their common sense and their attunement to the real world, of which libertarians have always been in notoriously short supply.

The fundamental basis of the *Brown* decision was rotten law because it was not law at all, but the supposed "science" of sociology. The crucial grounding of *Brown* was the alleged finding of the revered socialist Dr. Kenneth Clark that black schools in the South were not *really* equal to white because black students in segregated schools don't do as well as blacks in integrated schools. That was the basis, and from that came all the horrors of compulsory integration, forced busing, and white depopulation and decay of the inner cities. And what has been the result? It is universally acknowledged that the education of black students in current integrated schools is much worse than what they received in the segregated schools; and indeed, the old segregated black schools are now being looked upon as a veritable Golden

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Age. Indeed, the latest trend among blacks is to try to reestablish all-black grade schools and high schools.

Very well. But from that, several things must follow. One is that since the sociology of the *Brown* decision is all wet, and *Brown* was based upon lousy sociology, that *Brown* should be reversed. It has also been ruefully acknowledged by integrationists that black and white students always tend to segregate themselves voluntarily—socialize among themselves, eat by themselves in the school cafeteria, etc. Much as Jacobin integrationists deplore this phenomenon and try to discourage it, we have to recognize that the process is voluntary and natural, and that there is nothing wrong with it. In my view, by the way, the truly great leader of black Americans in the 20th century was not the socialistic and compulsory integrationists like Martin Luther King and Thurgood Marshall, but the brilliant and charismatic Malcolm X, who would have taken blacks down a very different path. Malcolm always stressed, not only black separation, but also the importance of such "middle-class" values as hard work, temperance, and thrift. In the short time that he had after leaving the Black Muslims and before he was gunned down by a still unexplained conspiracy (*not* by a lone nut), Malcolm was in the process of beginning to hammer out a coherent vision and strategy for blacks in America. It's too bad that he was never given the chance.

The truly great leader of black Americans in the 20th century was the brilliant and charismatic Malcolm X.

In general, the instinct of the black masses was always toward separatism; the siren-song of compulsory integration was sold to them by an alliance of white leftists and a small minority of very light-skinned middle-class "black" leaders, the very ones to benefit—as contrasted to the black masses—by anti-discrimination laws and affirmative action.

To return to the fallacies of Left-Libertarianism: apart from the question of what to do with government facilities, Left-libertarians are being grossly unrealistic by saying that anti-discrimination laws should only apply to strictly government operations, while private operations must be totally free. The problem is that, particularly in our State-ridden society, the line between "public" and "private" has grown increasingly fuzzy, and it is precisely because of that fuzziness that left-liberalism has been able to expand very easily, and with virtually no opposition, the original application of civil rights from public to all sorts of private facilities. Everywhere, for example, and in front of or next to every private property, there are public streets and roads. Virtually every private business sells some service or product to some government agency; every private business sells across state lines and is therefore subject to the "commerce clause" of the Constitution; every private school or cultural institution receives, directly or indirectly, government funds; restaurants are somehow invested with a "public" nature because they have doors open to the public; social clubs are not really "private" because once in a while they may discuss business or employment, and on and on. The results is that there is nothing "private" left, and Left-libertarians, as usual content with correctness in high theory, are left totally irrelevant to the current social scene.

So what is the remedy for all this? Certainly *not* to take the standard libertarian path: to endorse civil rights for public operations and then, if they are interested at all in the real world, to try to sort out precisely what is private and what is public nowadays. What has to be done is to repudiate "civil rights" and anti-discrimination laws totally, and in the meanwhile, on a separate but parallel track, try to privatize as much and as fully as we can.

The Role of the Judiciary

There is another crucial problem involved in the battle over the judiciary, in the shell game between leftists and modern conservatives, and in problems with Left-libertarianism. And that is the proper role of the federal judiciary and the Supreme Court. What is it? So far there have been three positions:

(1) Left-liberalism, with judges

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frankly creating new propositions in the Constitution so as to justify and even mandate left-liberal despotism by the federal government over everyone in the United States.

(2) Modern conservatives, exemplified by the revered Judge Bork, who believe that judges should only passively interpret and enforce the statutes. In short, that the role of the federal judiciary is to put an imprimatur of constitutionality on every action of the President and the Congress. Oddly, this so-called "conservative" stance used to be precisely the position of New Deal leftists such as Felix Frankfurter and his disciple Robert H. Jackson. This Old Left position was precisely the one that scuttled the Old Right, Nine Old Men position that magnificently outlawed as unconstitutional a host of invasions of property rights and freedom of contract. The embrace of this Old Left position by the current Right is in fact a testament to the degeneration of modern conservatism. Indeed, Bork himself embodies this shift. As a young jurist, Bork was a Chicago-School libertarian; then, while teaching at Yale Law School, he was converted by colleague Alexander Bickel, a disciple of the evil Frankfurter, to the Frankfurter-Jackson position.

It should be clear that, from the libertarian perspective, the Borkian conservative position is far worse, far more statist, than the Left-liberal one. At least, with Left-liberalism, we would accidentally gain libertarian judicial decisions because they sometimes happened to coincide with the Left-liberal agenda. But with Old Left/New Right conservatism in the judicial saddle, there would be no hope whatsoever in the Court of a libertarian check on executive or legislative despotism.

(3) The third camp is a return to the Nine Old Men, using the Federal judiciary as a frankly activist bulwark of the rights of private property as against the executive or legislative branch. This is now the Official libertarian position, held most notably by Richard Epstein of the University of Chicago Law School, by Randy Barnett of IIT-Kent Law School, and by the Cato Institute. It is certainly a position infinitely preferable to the other two, and one which I myself have ardently espoused in the past.

Absolute power must never be entrusted to a small oligarchy of men, especially Supreme Court judges.

But I have come to think that there are serious deficiencies in this Official Libertarian position, one that should lead us to rethink the entire problem of the role of the judiciary. There is of course the problem of naive adventurism, the idea that all we need do is somehow to sneak in a few Good Guys on the Supreme Court and all would be well. But more profoundly, for the sake of such a quick fix, of getting Good Guys like Epstein or Bernard Siegan (already rejected by the Senate) or Judge Alex Kozinski on the High Court, we fail to ask ourselves a deeper question, *e.g.*: should there be a Supreme Court, with absolute power, in the first place? The Old Jeffersonian position, for example, was radically different: that absolute power must never be entrusted to a small oligarchy of men, especially Supreme Court judges, who are an unchecked oligarchy appointed for life. Before Federalist John Marshall began to amass all power in the Supreme Court, no one ever believed, even with the existence of such a court, that it has the last word on constitutionality. In his great anti-New Deal novel, *The Grand Design*, John Dos Passos wrote:

We learned. There were things we learned to do but we have not learned, in spite of the Constitution and the Declaration of Independence and the great debates at Richmond and Philadelphia, how to put power over the lives of men into the hands of one man and to make him use it wisely.

(Dos Passos, *The Grand Design*, Boston, 1949, pp.416-18.)

This warning applies not just to one man, the President, but also to an absolute oligarchy of Nine Men or Women. And so what we have to do is to rediscover the Jeffersonian anti-judicial oligarchy position, not so much of Jefferson himself, who was largely all talk and no action, but of such Jeffersonian ultras as John Taylor of Caroline and John Randolph of

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Roanoke. In other words, we have to rediscover not only the forgotten individualist Ninth Amendment, but also the radically decentralist Tenth Amendment, and the legal tradition and principles from which it stemmed. Dismantling the Leviathan State, a task embraced by all libertarians, must also involve dismantling the nationalizing, centralizing, absolute oligarchy that constitutes the Supreme Court of the United States. Here we have a truly noble, new and exciting task awaiting us: to hammer out a fourth, radically Jeffersonian as well as libertarian position on the federal judiciary and the Supreme Court. In sum, we need a *paleo* position. ●

Color Bind

by Joseph Sobran

As I write, George "President" Bush has just nominated Clarence Thomas to the Supreme Court to fill the vacancy created by the retirement of Thurgood Marshall. Actually, Marshall *was* a vacancy during his quarter-century on the High Court. When a reporter asked him what he was going to do in his retirement, he replied, "Sit on my behind." I thought he hadn't heard the question. It was what are you *going* to do, not what have you *been* doing all these years. But the pundits marveled at what a witty answer he'd given. I guess they haven't been exposed to much Oscar Wilde.

Thomas's nomination enabled the press to change the subject from what a great justice Marshall had been, and not a moment too soon. Talk about lying to the American people. The encomiums the old dolt has been receiving have broken all records for collective mendacity. I've lost count of how many times Marshall has been called a "giant" during the past few days. The only giant he remotely resembles is one drawn by Don Martin in *Mad* magazine many years ago.

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Marshall's retirement caused Haynes Johnson of the *Washington Post* to get all leaky-eyed about the good old days of Lyndon Johnson (no kin, I suppose) when the Supreme Court was on the cutting edge of social change. Haynes is one of the few liberals in town who can still mention his namesake without embarrassment. The Great Society is still the good old days to him, and he has lately written a much-touted book deploring the Reagan years—*Sleepwalking Through History*, I think it's called. Anyway, LBJ appointed Marshall because it was the Historic thing to do—putting a blackfella on the Court, you know. Johnson also appointed his crooked crony Abe Fortas, who at least had something between his ears. Unlike Marshall, though, Fortas didn't last long. His shady business connections were exposed just as he was about to succeed Earl Warren as Chief Justice, and he had to resign, and he died a few years later.

The irony of it! Fortas was in his grave, while Marshall lived on to continue the struggle for social change, if dozing in front of the color television in your chambers can be called continuing the struggle for social change. Marshall once confided to a colleague that you can learn a lot about life from the soap operas. Possibly his views on abortion were shaped by *As the World Turns*, but since he says he has no plans to write his memoirs, we may never know. If someone writes a biography of him, though, it should be called *Thurgood Marshall: The Sleeping Giant*.

What's remarkable about Marshall is that in all his years on the Court he never said anything memorable. Even his admirers were hard-pressed to find any useful quotes. About the only interesting things he ever said were those remarks notable for their indecorum, as when he pronounced Bush "already dead" and called the Founding Fathers racists. Lately he has gotten into the habit of attacking his colleagues because the Court isn't voting his way any more. His concern is purely with results. Legal reasoning doesn't interest him, and he's no good at it anyway.

What I'm trying to say is what all his encomiasts are trying

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not to say: the man is *dumb.* Belligerently dumb. And it has become obligatory, in polite Washington, to pretend otherwise. You can make all the Quayle jokes you like (with my blessing), but to suggest that Quayle is a speed-chess champ compared with Marshall would be blasphemy, though it's true.

Look closely, and you'll notice that guys like Haynes Johnson aren't suggesting that the Court will suffer from being deprived of Marshall's intellect. They're merely lamenting that the Court's liberal body count has fallen dangerously low. Marshall was not only an instance of affirmative action, he represented the application of the one-man, one-vote principle to jurisprudence.

Say what you will about the liberals of the Warren Court, they were fairly smart (to our cost). And they could surprise you. Felix Frankfurter, Hugo Black, and even the abominable William O. Douglas sometimes dissented sharply from the liberal party line. In his last years Douglas was sometimes incontinent, right on the bench, so Marshall may have the edge on him in one respect. Though I don't know—the reporters who cover the Court are so worshipful of Marshall that if they smelled anything, they probably thought it was the odor of sanctity. But let's give Marshall the point. He doesn't have much else going for him.

As the Court took on a conservative cast under Reagan, Marshall belonged to a trio, with William Brennan and Harry Blackmun, that maintained the unity of a chorus line. Liberals paid homage to these three stalwarts who shored up the old faith, but failed to notice how *badly* the liberal case was being argued. And the regular unanimity of these three coots was an indication that they were merely voting a party line, with precious little intellection. None of them was a real maverick. The only independent liberal on the Court is John Paul Stevens, who gets less press attention than any other justice.

Marshall in particular never knew the difference between a judge and an advocate. As I've often observed, his voting record wouldn't be any different if he'd still been on the payroll of the NAACP. As far as he was concerned, he was there to represent blacks, not to weigh the merits of a given case on its own terms or to dispense impartial justice.

And—as is so often the case in Washington—everyone knew it, and everyone pretended not to know it. Marshall opposed the whole idea of the court as an impartial umpire. He corrupted the Court by his presence. He voted like a hack politician. He even reversed the very principle he'd stood for as a civil-rights lawyer when he thought it was to the advantage of blacks, that principle being, as he wrote in 1948 that "classifications and distinctions based on race or color have no moral or legal validity in our society." Thanks in large part to him, the U.S. government maintains racial classifications and actually enforces the racial discrimination it professes to forbid.

His abysmal career on the bench hasn't done much for the image of blacks, either. He has reinforced the stereotype of blacks as stupid, lazy, and dependent on government favors. He has added exactly nothing to anyone's understanding of law and the Constitution.

Marshall isn't the first mediocrity to sit on the Supreme Court. His real quality might have been politely ignored. But the Washington press corps has not only covered up for him, it has tried to portray him as the opposite of what he is, purveying the fiction that he's a "giant" of the Court. Clarence Thomas, an intelligent, hard-working man who disdains racial favoritism, will have a rougher time. That tells you all you need to know about which kind of black Washington prefers. ●

Exhume! Exhume! Or, Who Put the Arsenic in Rough-n-Ready's Cherries?

by M.N.R.

So what if it didn't work out? It was a great theory. Like Miss Clara Rising, I, a long-time fan of historical whodunits, had long been suspicious of the remarkably sudden death of Zachary Taylor, twelfth president of what used to be called These United States. The difference is that Miss Rising, a descendant of Old Rough-and-Ready, had the moxie to do something about it. Getting the necessary bureaucratic clearances, she plunked down

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$1,200 to get old Zack's body disinterred and exhumed, to find out at last what had done him in.

The facts of the case are these. Zack, though a man with no political experience, was inflicted on the country in 1848 by the increasingly desperate Whig Party, purely on the strength of his being a Hero of the Mexican War. It proved, indeed, to be the last presidential election won by the Whigs. At a July 4 picnic in 1850, Taylor, after consuming a bowl of cold cherries in milk, was taken violently ill and died several days later. As in every other case of a president dying in office, his death was minimized. The invariable rule has been: if a president is not visibly shot, then his death, though sudden, *must* have been by natural causes. If actually and visibly shot, then the perpetrator *must* have been a "lone nut." God forbid that more than one person might have been involved in the assassination, because *that*, heaven forfend, would be a "conspiracy theory," and we all know that the Establishment in the U.S. has virtually outlawed any such theory. Or, at the very least, it has been quite beyond the pale of correct thinking and permissible discourse.

To return to old Zack: his death had always seemed peculiar to me. If ptomaine or whatever had run rampant at this presidential picnic in the July heat of our nation's capital, why is it that only Zack Taylor, of all the picnickers, had caught this disease? Was the stomach disease aimed only at him? In short, was he poisoned?

It's peculiar that no one else seems to have even thought of this possibility. Miss Rising reveals that the Taylor family has long been rife with such speculation, but it took until 1991 for a family member to do something about it. The suspicion is that Taylor had been put under by a massive dose of arsenic, and the body was now exhumed to test for that poison.

Why did not Lyndon Baines Johnson immediately become the first prime suspect in the murder of J.F. Kennedy?

Naturally, Establishment historians, as always, sniffed at the very idea. Take, for example, the reaction of Professor Roger Brown, distinguished expert, at American University, on the history of violence in the United States. "If you're going to construct a theory of assassination, you've got to find somebody who would stand to gain from killing Taylor. I'm not sure that she has constructed a persuasive hypothesis about what somebody would gain." Cutting through the convoluted English, this strikes me as an astonishingly silly remark. Look, Professor Brown: in any death of a president, there is always *one* person who clearly stands to gain: the vice-president, in this case Millard Fillmore, who, because of these possibly lethal cherries vaulted to the august office of the presidency.

Is this being outrageous? But as everyone knows, in any murder or suspicious demise, the first suspect that the police investigate is the person who most stands to gain by the death. Who is the beneficiary of grandaddy's will? Etc. Now, this does not of course mean that the main beneficiary was actually responsible for *grandpa's death*. But at least the theory has to be investigated. So why not also in a sudden death of someone who means more to most of us than one wealthy individual: the president of the U.S.? Shouldn't the vice-president always be the first suspect, his whereabouts checked, etc.? So why has this never happened? Why, for example, did not Lyndon Baines Johnson immediately become the first prime suspect in the indubitable murder of J.F. Kennedy?

If anything, Miss Rising's own theory of the assassination is a bit too broad. Zachary Taylor, though born in Orange County, Virginia and himself a slaveholder, surprised everyone by leading the battle to prohibit any admission of western slave states into the Union. He also opposed the Compromise of 1850, which managed to delay the War Between the States for a number of years. So Miss Rising postulates that Southern slaveowners bumped off this dangerous traitor

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to his region and culture. Well, that's certainly interesting, but where's the evidence? Surely Millard Fillmore is a more plausible *a priori* bet.

It turns out that the exhumation shows only normal trace quantities of arsenic in Old Rough-n-Ready's remains. Shucks. The terrible thing is that this result might discredit the exhumation movement. It shouldn't. Let's find out, at long last. Let's follow the path blazed by the courageous Miss Rising; let's exhume the body of *every* president who died in office, and let's take another more scientific look.

The assassination was used by the Establishment to smear anarchism.

Let's go down the list. First was "Old Tippecanoe" William Henry Harrison, another *verdamte* War Hero (the War of 1812), who allegedly spoke too long at his inaugural, walked out in the rain, caught the flu, and died, only a month after his inaugural. Supposedly natural causes. Humph. Let's exhume Old Tippecanoe and look for poison. Beneficiary? John Tyler, a Democrat when Harrison was a Whig. Another Southern Democratic plot?

Then came Zack Taylor. Third death in office, of course, was the sainted Abraham Lincoln. Oddly, even though his killing was clearly a conspiracy, the Establishment has injected into the popular consciousness the image of a lone nut, John Wilkes Booth, declaiming wildly after he shot Lincoln. Moreover, the conspiracy was hushed up, military courts delivering summary justice in secret. There is a substantial revisionist view that the major conspirator was Secretary of War Edwin M. Stanton, who contrived to have every one above him in the line of succession to the Presidency shot at (only the assassination of Lincoln was successful). I don't know exactly how an exhumation of Lincoln's body would help test the Stanton thesis, but since the body is being exhumed anyway (to test for Mar-fan's Syndrome, and why should anyone care whether Abe had Marfan's Syndrome or not?), they may as well poke around further and see what they can find. It sure can't hurt.

Next came James A. Garfield, bumped off by someone eternally tarred with the epithet "disappointed office-seeker." Another lone nut. Charles Guiteau was apparently driven off his nut by not getting a job in the Garfield Administration, and this was then successfully used by the Establishment to inflict the monstrous Civil Service system on this country, protecting every bureaucrat for life in his invasion of the pockets and the liberties of the taxpayer. Let's exhume and investigate. Beneficiary? Vice President Chester A. Arthur, a New York corruptionist and protectionist, opposed to Garfield's relatively laissez-faire wing of the Republican Party. Or maybe the civil service reformers were responsible, using Guiteau as an excuse for pushing through their Civil Service.

Next president to die in office was William McKinley of Ohio, long-time Rockefeller tool. Another lone nut was responsible, the "anarchist" Leon Czolgosz, who, like Guiteau, was quickly tried and executed by the Establishment. Even though Czolgosz was considered a flake and was not a member of any organized anarchist group, the assassination was used by the Establishment to smear anarchism and to outlaw anarchist ideas and agitation. Various obscure anti-sedition and anti-conspiracy laws trotted out from time to time by the Establishment were passed during this post-McKinley assassination hysteria. Beneficiary? The vaulting to power of Teddy Roosevelt, long-time tool of the competing Morgan (as opposed to Rockefeller) wing of the Republican party. Teddy immediately started using the anti-trust weapon to try to destroy Rockefeller's Standard Oil and Harriman's Northern Securities, both bitter enemies of the Morgan world empire. Exhume McKinley, and also start a deep investigation of the possible role of Teddy and the Morgans. Was Czolgosz only a lone nut?

Next sudden death in office was that of my favorite president of the twentieth century, Warren Gamaliel Harding, in the camp of the Rockefellers. His death was quickly dismissed by the Establishment as of natural causes, but Gaston Means, a Secret Service agent

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in the Harding White House, wrote a sensational book, *The Strange Death of Warren Harding*, charging that Harding was poisoned by his wife, for two possible, though somewhat contradictory reasons: (a) Harding's notorious womanizing, and (b) to spare Harding the scandal of the Teapot Dome revelations, which were just emerging. Means' charge was brusquely dismissed on the grounds that he was an unreliable character. Perhaps, but so what? Surely, the grounds for exhumation are overwhelming. Chief beneficiary of Harding's death? Vice President Calvin Coolidge, member of the prominent Massachusetts family long in the Morgan ambit. (Hmmm. *Another* sudden death that replaced a Rockefeller person by a Morgan man?!)

The next presidential death in office was of course that of the revered Franklin Delano Roosevelt. This is perhaps the most mysterious death of all. FDR's health had long been swathed in layer after layer of official and medical lies. And when he died, in his fourth term, the official mystery was unprecedented: his coffin was covered, and an autopsy was never performed on the body. All sorts of rumors abounded: that he died of syphilis, or of a gunshot wound, either self-inflicted or inflicted by someone else. Was Mrs. Lucy Mercer there when he died? And what *was* the role of the mysterious Russian painter, Mrs. Elizabeth Shoumatoff? The cause of historical truth and justice cries out for exhumation and deep analysis of FDR's remains.

Main beneficiary of FDR's death was, of course, Harry S. Truman. In broader political terms, a pro-Commie president, manipulated as we know now by brain truster, top foreign policy adviser, and unregistered KGB agent Harry "the Hop" Hopkins, was suddenly replaced by the first launcher of the Cold War, at the behest of such venerable Establishment "Wise Men" (as they modestly called themselves): Henry L. Stimson, W. Averill Harriman, Dean G. Acheson, and John J. McCloy. Exhume, exhume!

Finally, of course, matching FDR in mystery is the last president to die in office; the shining prince of Camelot, whose shine gets more tarnished every year: John Fitzgerald Kennedy, allegedly assassinated by lone nut Lee Harvey Oswald, who in turn was promptly assassinated by another, *independent* lone nut: Jack Ruby! This is the shakiest, most convoluted Establishment theory of all: for the two lone nuts had to be independent, couldn't have known each other, so that this kooky official theory could work. So much so in fact that the mysteriously sudden deaths of all those who knew both Oswald and Ruby and who knew that the two were linked, is one of the most powerful counter-indications to the official doctrine. Here the number of books and investigations rebutting Establishment theory is legion, although orthodox writers still act as if dissenters are somehow tetched: powerful works from such writers as Mark Lane, the bullet-and-body revisionism of David Lifton (in his *Best Evidence)*, the work of the smeared Jim Garrison, etc.

Here the case for a new investigation with subpena power is overwhelming. Not only is there persuasive evidence that the Parkland autopsy report was to say the least deeply flawed, as well as the possibility that the Kennedy body was switched, but also we find that Kennedy's brain is mysteriously "missing" from the National Archives. Hell, libraries lose books all the time, right? Exhume, investigate!

Beneficiary? As I indicated, Lyndon Baines Johnson, who as Texan students of his career know, was not above using a little illegal hanky-panky to advance his political career. And what about that intrepid Kennedy assassination researcher who, analyzing the motorcade with Zapruder, etc. films, concluded that Lyndon hit the deck of his car 2.7 seconds *before* the sound of the first shot? More broadly, the assassination of Kennedy removed from power, by force and violence, a representative of the "Yankee" Eastern Establishment, and replaced him by a leader of the Sun Belt (Florida, Texas, southern California) "Cowboys"—as explained in Carl Oglesby's perceptive work, *The Yankee and Cowboy War*. On this analysis, the Watergate Affair consisted of a counter-coup levelled by the Yankees, installing Establishment rep Gerald Ford, and ousting Cowboy (southern California) Richard Nixon. (See Carl Oglesby, *The Yankee and Cowboy War*, Kansas City: Sheed Andrews & McMeel, 1976).

All this is not only of fascinating interest to the history buff. Who knows: there might come a time when yet another beloved president dies, unexpectedly and

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quite suddenly, in office. What we need to adopt is a mind-set that, if and when such an event occurs, we better be prepared to cast a cold eye and ask all the right and the upsetting questions. ●

Is God A Man?

by M.N.R.

The flap even made the pages of the magisterial *New York Times*. Cardinal John O'Connor of the New York Archdiocese had preached a Father's Day sermon denouncing the feminist perversion of the Catholic faith that refers, *inter alia*, to God the Mother. The sensationalist tabloid the *New York Post* interpreted the sermon with a roaring headline, "God is a Man, Cardinal Says." When the Archdiocese issued a statement denouncing the headline as a gross distortion, *Post* editor Jerry Nachman defended his exegesis. The Cardinal said that Jesus was a male, Nachman replied, and that Jesus himself referred to "God the Father." Triumphantly, Nachman concluded: "Male. Father. Not mother. All terms used by the Archbishop. If His Eminence now insists these terms do not translate into the word 'man,' his differences with *The Post* involve semantics, not theology." [*New York Post*, June 18.]

"Christianity is not a philosophical speculation, it is not our work. It is a revelation.... We have no right to reconstruct as we like or choose."

As the great Jackie Mason might say, "these days, every *schmuck* is a semanticist." The roly-poly, street-smart Nachman might have many virtues, but theologian he ain't. Let's see if we can set this straight. In the first place, as uncomfortable as it might be for feminists, Jesus Christ was, indubitably, a man. Male. He was, moreover, in Christian doctrine, the visible, human embodiment of God the Son (not Daughter). And Jesus did indeed refer to God as the Father. None of this, however, implies that God is physically a man; as Creator, indeed, he incorporates the masculine and feminine.

There is another important aspect to all this that has not been mentioned in the press. Jesus, as in the case of every human, had two parents. His mother, the Virgin Mary, was human; the *other* parent, who impregnated Mary, was another aspect of the Triune God, the Holy Spirit. So what does this make the Holy Spirit, if not *father* of Jesus? Eh?

As Cardinal O'Connor quite properly put it: "Christianity is not a philosophical speculation, it is not our work. It is a revelation. . .. We have no right to reconstruct as we like or choose."

Contrast the voice of outraged feminism over the Cardinal's sermon. Said Ms. Melody Behan, president of the New York City chapter of NOW: "It's astounding that he [the Cardinal] can take something as personal as people's image of God and say what that's supposed to be. People should be free to create the image they worship."

Bill Buckley once referred to the "infinite capacity of liberals to be surprised." Why should Ms. Behan be "astounded"? Where has she been all her life? It is precisely the Cardinal's role to be defender of the faith and part of that defense is to reiterate and expound on what the Christian faith believes to be the correct portrayal of God.

The tipoff, of course, is Ms. Behan's final sentence. This is, as they used to say in the good old days, "a free country." Ms. Behan is entitled to create any image she wants to worship, from the Earth Mother to the graven image of Baal. But why shouldn't the Cardinal, and countless millions of other Christians, be "free" to expound what *they* believe to be the revealed path? Or is Ms. Behan attempting to deny that freedom?

No one, then, is stopping feminists from finding Goddesses to worship, and many of them have, from Gaia the Earth Mother to various adored objects of witchcraft. Or better yet, they could create their own new religions, and perhaps find a She-Messiah who will be crucified and then rise again on the third day. I'm sure many of us have our

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favorite candidates for that glorious role. ●

Degrees Of Punishment

by M.N.R.

There is no generally accepted punishment theory among libertarians, but it is commonly agreed that there should be degrees of punishment, in some way proportioned to the offense. Some prisoners make it to maximum security prisons; others are quartered in comparative luxury. Tops in luxury, perhaps, is the treatment accorded to the alleged No. 1 drug kingpin in Colombia, Pablo Escobar, who worked out a deal with the government that he would only surrender if there were no longer any dread extradition to the United States (as indeed, why should there be? since Pablo's crimes, such as they were, were not committed on U.S. soil).

Well, Escobar is getting the royal treatment. The government has constructed a special luxury fortress just to house Escobar and his entourage, which includes his security guards. Friends come in freely, his mother cooks Pablo's meals, television abounds, and the jail is placed in Pablo's home town, where he is considered a hero. On his first day in the hoosegow, the Mayor greeted him and they had a special dinner together.

It seems that various other prisoners in Columbia, smitten with egalitarian envy, are protesting this treatment that they deem unfair. My favorite comment on this question was by Father Garcia Herreros, the 82-year-old Catholic priest who mediated Escobar's surrender. When asked how Escobar's palatial jail conditions could be justified, Father Herreros replied: "It's just the way life is. Some people can go to five-star hotels and some people can't." [*USA Today*, June 24]. Hey, I like that. That's *my* kind of Catholic social theorist! ●

Nobel For Buckley?

by M.N.R.

I see that my old friend, libertarian Idaho businessman Ralph Smeed, has just launched an unauthorized Nobel for Buckley Committee, taking out a large ad in *Human Events* for the cause. Ralph and his colleagues make sure to dissociate themselves from what they themselves call Buckley's "fascist-type" national youth service scheme, but they claim that a Nobel for Buckley's "mountain of good works" would supply a great impetus for the work of "polemicists and purists," among whom they are kind enough to name Mises and myself. As for myself, in my favorite phrase from Sam Goldwyn, kindly include me out. I don't know what this "mountain of good works" may be; as far as I am concerned, Buckley's life-long accomplishment was to transform the largely isolationist, libertarian Old Right from a movement that I admired to a global war-mongering, statist Establishment movement that I abhor. For this monstrous achievement I am supposed to help strew his path with laurels? Note what I am saying: *not* that Bill Buckley is an "impure" member of the same general movement to which I as a "purist" belong, but that Buckley's entire life-role was and still is to act as a Trojan Horse for the other side, and to convert a largely libertarian opposition movement into a vital bulwark of the Leviathan State. For this I suppose Bill deserves some sort of recognition, but a Nobel Prize is not the sort I have in mind.

To put it another way: I am all for civility and cooperation among different wings of the same general movement; but *first*, it is necessary to figure out who's on which side.

More particularly, and setting this broader view aside, what is Bill supposed to get a Nobel Prize *in*? Somehow, I don't think that Buckley's contribution to physics or chemistry is quite enough to get him an award, and the last I looked they don't hand out Nobels for prowess in sailing. Literature? Even I, a devotee of spy novels, would not propose a Nobel for Buckley's CIA-espionage trash. And surely, even his closest friends would not claim that Buckley knows enough about economics to get a Nobel Prize there. So in what then? No, don't tell me, Ralph: *not* the Peace Prize! Surely it can't be *that*? There must be *some* standards left in our culture. His entire adult life, Bill Buckley has whooped it up for every war in which the United States has been engaged: whether it be the Cold War, Korea, Vietnam, Panama, or the latest adventure in the Gulf. I suppose you can say that if Kissinger got the award, anything is possible, but surely there is *some* shame left in Scandinavia. ●

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The Modals Explained

by Joe Melton

In the old days it was easy, all too easy, to spot a Randian. You could sniff one at 500 paces. There was the grim look, the stern refusal to smile (for fear of casting a smile on an unworthy, un-Randian recipient), the *serioso* outlook, the dramatic Breaking With anyone who differed on any issue, and all the rest.

Nowadays, however, it's more difficult. There aren't very many old-fashioned Randians possessing all the old stigmata. Oh, the Old Breed still exists in the fever swamps of Orthodox Randianism, among Rand's heir Leonard Piekoff and his followers, but they only linger in isolated pockets. This fading away led us all to heave sighs of relief, and to conclude that Randianism is dead as a doornail.

We were wrong, however. Big mistake. Recently, we have been puzzling about Modal libertarians, their traits, mores, and characteristics. We have wondered: where did all these people come from, and why are they plaguing us? What we haven't realized is that these people, frankly, are Randians—not Orthodox ones, to be sure, but modified and transformed into Conservative or Reformed Randians. Neo-Randians, if we wish to call them that. Mull that over, and everything becomes crystal clear. In dealing with Modals we are only confronting, once again, a new mutation of Old Randian Man.

Remember: it has been practically a cliche that, until the last few years, virtually everyone that came into the libertarian movement and the Libertarian Party had previously been Randians. Of course. But what we haven't realized is that they continued to be, and still *are*, Randians.

Not the orthodox kind, of course: not the one who declaims, "How dare you say *that* about Her!" and stomps off. But the old mind-set is still very much there. One thing that threw us all off is that the New Breed of Randians smile occasionally, sometimes they are even downright genial. But the key thing is that none of them have any sense of humor whatsoever. Zippo. Not one of them launches any high wit, any quips, or even tells any jokes. None of them has ever been caught committing a Politically Incorrect joke. Indeed, they get very uppity about such jokes, Breaking ostentatiously with people who dare to transmit them.

In fact, while the New Randians don't Break With everyone who disagrees on every question, in their own quiet way they do an awful lot of Breaking With. There is in every Randian, Old or New, The Test. For the New Randian the Test is generally trivial, and so it may come as something of a surprise to the unwary. "What! You defend *that* article! I break with you," and we're off to the races. Set the New Randian off on some point at issue, and he is like an obsessed terrier, trying ferociously to rebut every sentence of The Enemy, always insisting on getting in the Last Word or the Last Fax.

And so it is trickier to spot the Neo-Randian. He doesn't go around proclaiming that "Ayn Rand is the greatest person of all time" so much anymore. In fact, he often *seems* like a real person. But, step on one of his tics, which are all wrapped up in Political Correctness, aggressive atheism, and cultural Leftism, and the mask of geniality comes off, and there is the same old grimbo once again hurling anathemas, the grimbo we had thought long gone and out of the way.

One thing that Lew and Murray have done in generating paleo-libertarianism is to polarize, to smoke them all out, to bring stomping out of the woodwork not only the malignant Modals, but also the other side of the Modal coin: the Randians, still there in spirit, still giving definition and identity to the Modal Libertarian life. ●

Where Are They Now?

by Joe Melton

Where are the libertarian greats of yesteryear? No, I don't mean a century ago, I mean twenty or thirty years ago. A short time, really. Once these greats, or "greats," lit up the libertarian firmament. They wrote, spoke, made waves, added to, or subtracted from, the corpus of libertarian theory. Where in blazes are they now?

Andrew Joseph (a.k.a. "Joseph Andrew") Galambos. Founder of Galambosianism, one of the most consistent, and arguably the nuttiest, theory in the history of social thought. Because everyone, specifically Galambos, "owns" all of his ideas in perpetu-

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ity, and because Galambos is virtually the only creator of new ideas, Galambos—according to Galambosianism—owns all, and therefore no heathen (non-Galambosian) is to be permitted access to Galambosian doctrine. Which means that Galambosianism is, by definition, a self-limiting, self-destructive doctrine which cannot be talked about, and therefore constitutes what has been called a "black hole" for the libertarian movement. At one time, Galambos flourished — in L.A. of course — as the "highest paid lecturer" in the country, lecturing endlessly on "Galambosian physics" to several hundred cultists who kept kicking in for the privilege. By the nature of the ideology, it is impossible to *know* what has happened to "Joe" (a.k.a. "Andy"), but one hears rumors that Joe is either Out of It, or has Gone Underground.

Antony ("Tony") Sutton. Libertarian, political historian, and conspiracy theorist, Tony spiralled downward from fellow at the Hoover Institution, to Yale Skull and Bones conspiracy analyst. Latest report: having acquired a substantial publisher's advance, as well as loans from many friends, Tony Went Underground, and has not been seen or heard of since.

Tom Marshall. In the 1960s, brilliant theoretician, engineer, and editor of L.A. libertarian newsletter, *The Innovator.* Came to conclusion that the only true freedom is living as a nomad, with no abode, no possessions. Then decided the only way to escape the State is to, literally, Go Underground (dig holes). Lost underground.

Morris and Linda Tannehill. Early anarcho-capitalists, authors of *A Market for Liberty.* Morris was a leading "neo"-Nazi, converted to libertarianism on putative deathbed by reading *Atlas Shrugged* in hospital. Linda was the major theoretician of the couple. After writing the book, the Tannehills founded their own sex-cult "therapy," split up, Morris died, and Linda, a.k.a. "Linda Locke," decided the only true freedom is living as a nomad, with no abode, no possessions. Not yet lost underground.

One hears rumors that Joe G. is either Out of It, or has Gone Underground.

Carl and Ernestine Perkins. Early Canadian anarcho-capitalists, authors of *Rational Anarchism.* What happened? Whereabouts? Unknown.

Don Franzen. Once brilliant young libertarian philosopher, L.A. area. Wrote article for John Hospers' *Personalist.* Last seen: suspiciously glassy-eyed, not very philosophically oriented. Whereabouts? Unknown.

H. Bruce Axler. Once allegedly brilliant young libertarian theorist. As biologist in high school, claimed to have discovered cure for cancer. Dropped out of Columbia, worked as salesman for Monarch class notes, an Our People's publisher. Last spotted as brilliant young chef at Waldorf-Astoria.

Roy A. Childs, Jr.. Once brilliant young libertarian political philosopher, neo-Randian, writer, and inspiring orator. Then became convinced would run *and win* for Senator from California on LP ticket. Now writes puff reviews for Laissez-Faire Books catalogue. Unable to leave apartment.

Augustus di Zerega VI. Once brilliant young Kansas libertarian sociologist, then Went West, now Counter-Culture Believer in magic, crystals, and Pyramid Power; thinks praxeology and libertarianism err by ignoring the merits of co-ops and Mom and Pop stores.

Doctor Schmidt. A physician graduating from a top med school, brilliant young Michigan anarcho-Randian decided on life-work to discover cure for cancer. But since he wanted to pocket all the profits himself, had to save up lots of money for own laboratory. In order to get money for laboratory, went into commodity speculation. Tried to write screen plays in order to get close to Gina Lollobrigida, whom Schmidt decided was his only "rational value" to marry. Once surfaced as theoretician and proposed editor for Morris Tannehill's projected national weekly newsmagazine. In order to get money for commodity speculation to get cancer laboratory, Doctor Schmidt decided to write definitive book

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(to be published and distributed himself, so as to reap all the profits) on anarcho-capitalist theory. Last surfaced, peeved, claiming that the subtitle of Murray Rothbard's *For a New Liberty*, "The Libertarian Manifesto," was precisely the title that he had chosen as the only rational title for his book, and that therefore his book would be ruined. Demanded subtitle be withdrawn.

As far as can be discerned, Doctor Schmidt's book was never written, he never made millions in commodity speculation, never got laboratory, never cured cancer, never married Gina Lollobrigida. A Modal Libertarian life.

Williamson Evers. Boy genius of libertarian political science 20 years ago, he is now the brains, such as they are, of the Libertarian Party. His wife Mary Gingell is running for the LP chairmanship, and plans to appoint him national director. ●

Must We Tolerate Tolerance?

by Llewellyn H. Rockwell, Jr.

Milton Friedman, the famous economist, believes we can't tell right from wrong. He thinks that tolerance is the "basic human value." If you disagree, you're mistaken. And he hates you.

We know this from his speech to last August's Future of Freedom conference in San Francisco, where Friedman advised the assembled Modals — to the tune of many standing ovations — to just say no to intolerance. Don't be like Mises or Rand, he told the 400-member audience with perhaps 50 jobs among them. Mises and Rand were not only "highly intolerant" as people, they promoted "intolerance" in their theories. Why? They believed we could tell good from evil, and that we should fight for the good, and against the evil.

Why is non-aggression correct, asks Friedman? "I have no right to coerce someone else because I cannot be sure that I am right and he is wrong." *This* is the operating principle he believes should underlie libertarianism, and life: that we cannot tell right from wrong.

Not that he's always a moral agnostic. Friedman calls the idea of abolishing the welfare state "immoral" and "irresponsible." It must be OK to coerce someone to pay for the welfare state. It must be intolerant to refuse.

Mises was so intolerant, Friedman says, that he once called some pro-tax economists (including Friedman) "a bunch of socialists." Worse, Mises advocated a method, praxeology, that deduces economic laws from the premise that "man acts," that is, that human beings have purposes, and that they seek to achieve them. Friedman calls this idea unscientific and "religious" (his worst epithet). Praxeology must lead, he says, to social strife.

For social peace, Friedman would have us all be positivists, and believe that we can never know anything (not just right and wrong) for sure. As someone who rejects the very idea of economic law, Friedman would disagree with Mises that socialism must fail. All we can say, he would tell us, is that it has failed under certain specific conditions. Change the conditions, and it might succeed.

Contra Mises, says Friedman, we can't know anything apriori. Imagine, he says, that "Your house is next door" to his and you "play your hi-fi at an enormously high decibel count. Are you violating my private property?" You can't know this in advance through logical deduction, he says. It is a practical question requiring an answer "based on experience."

Positivism, which Friedman did so much to fasten on the economics profession, holds that there are only two kinds of knowledge: definitional and hypothetical. Definitional knowledge, which the positivists say tells us nothing about reality, includes statements like: "a bachelor is an unmarried man."

Hypothetical knowledge, which can tell us something *tentative* about reality, includes such statements as: "If the government forces prices below the market level, there will be shortages." We cannot know this for sure, say the positivists; we can only know that it has been true in x number of examples.

Positivist economics has, not surprisingly, been a weak reed in the fight against socialism. But there is a more fundamental problem. As Hans-Hermann Hoppe points out, what sort of knowledge is the statement that there are only two sorts of knowledge? ●

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If it is definitional, it tells us—according to the positivists—nothing about reality. If it is hypothetical, why should we take it any more seriously than any other hypothesis? And if it is a third sort of knowledge, what is it, and why is it the only example? (Note: the positivist methodologist whom Friedman holds up as the tolerant alternative to Mises is Karl Popper, a paranoid cult leader whose hatred for any deviation from his doctrine, and frenzied accusations of intellectual theft against similar theorists, makes Rand look like Little Mary Sunshine.)

To get back to the hi-fi, the right to private property necessarily includes the right to unimpeded enjoyment of it, or it is not private or property. To Mises, Rand, the common law, and any reasonable person, a screeching hi-fi must violate Friedman's property rights, and the offender can be made to turn it down.

Boom-box owners ought to respect Friedman's property. But do we have to tolerate his ideas? As usual, Mises gives us the answer: "Liberalism demands tolerance as a matter of principle" only of the state; "against what is stupid, nonsensical, erroneous, and evil, liberalism fights with the weapons of the mind."

To say that we cannot know right from wrong, or that tolerance is an overriding value, leads not to the free society, but the decadent one. That is, to the nonsense, error, and evil of Modal Libertarianism. Rand called the sort of people who gave Friedman so many standing ovations "capitalist hippies." But that gives them too much credit. They make as much of a contribution to capitalism as they do to the job market. ●

Bummer!

by L.H.R., Jr.

Hey, Modals, you don't have to follow *every* line in the paleo script. But somehow the mere existence of our little movement has polarized each of you into the farthest reaches of the wacko-Left. Another example: Libertarian Party vice-chairwoman Mary T. Gingell.

Hey, Modals, you don't have to follow *every* line in the paleo script.

Gingell writes to the *Wall Street Journal* (6/26/91) about the legal ruling involving the derelict and the Morristown Free Library.

Briefly, a horrifically smelly bum was living in a New Jersey public library, and making decent people sick to their stomachs. (As Joe Sobran points out, the homeless are also the bathless.) The library finally tossed the guy out, but the ACLU—of course—sued for vagrant rights, and a liberal federal judge ruled in their favor.

Gingell, in her official capacity, takes the pro-tramp position, claiming that a "cultural institution" that accepts tax money "loses its right to set policies about the behavior of its patrons." Huh?

Peeing on the books? Sex in the stacks? Rap music in the reading room? Anything goes, says Gingell, because the library isn't private. Or, as another prominent libertarian once told me, it's OK to take a library's books because they aren't private. "Steal this book," as the semi-Modal Libertarian Abbey Hoffman once put it.

Yes, all libraries should be privatized, as Gingell says, up to and including the Library of Congress. But what do we do in the meantime? Let the bums rule? Yes, says the Modal, who somehow always sides with the Left in everyday life as versus high theory.

But there is another school of thought within the libertarian movement on public property. All public property should be private, but until it is, we should treat it as much like private property as possible. Streets should be run, for example, as if they were private. The houseless would not be allowed to congregate and harass the housed. And since any private library would give these men the bums' rush, so should public libraries. Any other policy means the jungle, which is exactly where Modal Libertarianism leads.

The paleo view of the proper use of public property is not something Modal Libertarians can ever agree with, or understand, because it involves, not an ironclad apriori theoretical point, but what Mises called *Verstehen*, historical and sociological

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understanding based on unique circumstances, in this case, the bumization of American society.

We don't need another way to tell left-libertarians from paleos, but here it is: should a fetid dance-hater be allowed to blast an airhorn during performances of the New York City Ballet because it gets government money? Answer yes, and you're a Modal; answer no, and you're a normal. ●

Courting Clarence

by L.H.R., Jr.

Clarence Thomas is—say establishment conservatives—a refreshing contrast to Thurgood Marshall. I might take that seriously if these sell-outs weren't also praising Marshall as a "hero."

I always assume that any policy, or person, advanced by the Rockefeller Republicans of the Bush administration is no good. It may take me a while to discover, for example, that the Mexican Free-Trade Agreement is actually a managed trade scheme to enrich special interests and expand the state, but all I had to do was assume the worst, and look for it.

So I didn't cheer when Thomas was nominated for the Supreme Court. Yes, he is a "conservative," but what exactly does that mean? In today's context, when the *Wall Street Journal* prints paeans to Marshall, not much. The difference, perhaps, between the Bush and Kennedy civil rights bills—lots of rhetoric and about a sixteenth of an inch of fact.

It is therefore no surprise that Thomas calls on conservatives to help impose "inherent equality." In fact, as Ludwig von Mises and others have shown, accepting the inherent *in*equality of men is the necessary foundation for even *thinking* about the free society, let alone helping bring it about.

Worse, Thomas wants to impose this "inherent equality," which is the cornerstone of socialism, through "aggressive enforcement of civil rights laws and equal employment opportunity laws." How is this repudiation of property rights any different from Marshall, who openly endorsed anti-white racial discrimination? I realize that those of us who still believe in freedom of association are few and far between, but I'd still like to know.

Thomas calls the old South "totalitarian." But that's liberal nonsense.

Thomas calls the segregation of the old South, where he grew up, "totalitarian." But that's liberal nonsense. Whatever its faults, and it certainly had them, that system was far more localized, decent, and humane than the really totalitarian social engineering now wrecking our country. One of the most affecting passages of Ralph David Abernathy's autobiography discusses his childhood in this "totalitarian" system. It was idyllic, he points out. He didn't see real race hatred until he moved to Chicago. The South didn't do too badly by Thomas either.

For official victim groups, solipsism is now compulsory, and Thomas is no exception. From what I can tell, all he talks, thinks, and writes about is his race. Isn't this, at the very least, disquieting? What would we think of a white who did the same?

Thomas, now an appeals court judge in D.C., is identified by a news story in the *Wall Street Journal* as voting for the government's side in all matters, including economic intervention. This is conservative? In fact, this *is* conservative in these days of egalitarian domination. We are allowed, for example, to give two cheers for capitalism, or one, but not zero or three. We can be for property rights, so long as they are limited. Similar "moderation" in favor of a welfarized America operates in all areas, including race.

As I discovered when I worked at the Law & Economics Center, federal judges are—unlike other federal officials I've dealt with—a very bright group. Unusual intelligence isn't everything, of course, but it would be nice in a Supreme Court justice. Thomas has the reputation (real, not mediaized) of not being very impressive intellectually. Attorneys who've dealt with him tell me the same, and his TV appearances don't make me think differently.

Certainly Thomas had his path smoothed through Catholic school, Holy Cross College, and

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Yale Law School; to two high posts in the Reagan administration; to the most important circuit in the federal appeals system, and now probably the Supreme Court, at the age of 42, all because he is black. Naturally, he complains that he has been discriminated against because of his "black skin."

The Washington Post quickly endorsed Thomas because "his personal background" would bring "diversity to the court." The heroic Marshall, said the *Post*, came from a regular family, whereas Thomas was raised by the "functionally illiterate." Huh? I know it will help him deal with federal employees, but still . . .

If we are going to restore the peaceful, free society of yesteryear, we need judges who embrace real diversity, not Procrusteanism; who refuse to sacrifice property rights on the altar of egalitarianism—judges, in other words, who seek to turn the clock back to the Constitution.

Just because a man sounds like a 1975 liberal doesn't make him worthy of support. ●

P.C. Watch

by L.H.R., Jr.

AIDS I

Kimberly Bergalis, the college girl given AIDS by her dentist when he extracted two molars, is near death, and the *Washington Post* published her last letter, to the Florida Department of Health and the federal Centers for Disease Control: "AIDS has slowly destroyed me. Whom do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone, and never had a blood transfusion. I blame Dr. [David] Acer and every single one of you bastards who knew Dr. Acer was infected and stood by not doing a damn thing about it. You are all just as guilty as he was."

Bergalis is one of five patients so far revealed to have been infected by Acer. The *Post* reports that investigators are now considering the possibility of "deliberate transmission," i.e. that Acer was a mass murderer. Between the time Acer learned he had the fatal disease and his death, he saw 2,000 patients.

Investigators are now considering the possibility of "deliberate transmission," i.e. that Acer was a mass murderer.

The Moron Lobby

Civil service normally cements you into your job in the New York City bureaucracy, but not if you violate P.C. An official in the city's personnel department recently told a reporter that the new "non-discriminatory" exam for police recruits was so easy "a moron could pass it." Whoosh, she was out the door for the crime of—yes—"insensitivity to minorities."

The World's Majority

But watch that word "minorities." A New York State commission on multicultural curricula, in addition to condemning Eurocentrism and "slave" (we are supposed to say "enslaved person"), bans "minority" from all sensitive vocabularies. The correct phrase is "member of the world's majority."

Dizzy Discriminating?

One of the hottest nightclubs in Los Angeles is Vertigo, and every night there is a long line waiting to get in. Outside the club stand young men, anti-bouncers, who decide—based on looks and dress—who gets in, and who has to wait in line, perhaps all night. "Discrimination," whined an anonymous member of the unchosen, so the state liquor-licensing agency sent undercover agents who, sure enough, were kept waiting, except for one of their number, a pretty young woman dressed in a mini-skirt. (The male agents wore polyester leisure suits or plaid suit pants and jackets that didn't match.)

Style discrimination! claimed the government, which brought suit to force the club to: let everyone in, post a dress code that the public could abide by, or lose its liquor license. The state's civil rights law forbids discrimination on only the usual laundry list of grounds, but the bureaucrats claimed that any "arbitrary discrimination" was implicitly illegal as well. Evaluating people on their degree of hipness was, the gov-

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ernment said, as arbitrary as you could get.

The owner protested, with the help of expert witnesses from *LA Style*, that fashions change so quickly that even if hip were quantifiable, no written dress code could keep up. The club's lawyer pointed out that the normal life expectancy of a nightclub in L.A. is weeks, and that Vertigo has survived for six years because it is exclusive, and therefore desirable.

"If Kevin Costner came to your club wearing a polyester leisure suit," asked the D.A., "would you let him in?" "Kevin would never dress like that!" protested the owner, but the judge ruled against the club, which is now appealing. Style discrimination, said the judge, could open the door to all sorts of invidious conduct, so Vertigo cannot close its door to the unbeautiful.

There *Go* the Judge

Robert F. Collins, a black civil rights lawyer mentioned in Robert Penn Warren's *Who Speaks for the Negro?*, later became a federal judge in his native New Orleans. Now he's the first federal judge in history to be convicted of taking a bribe.

When Gary Young, a major drug smuggler, was arrested, a friend of Collins's told Young, "the judge can help you." Taping all meetings for the FBI, Young turned $100,000 over to the go-between, who split it with the judge. Marked money was found in his office safe and wallet.

"Not known for his notable decisions," says the *New York Times*, Collins relished the power of being a judge, and he acted as if nothing had happened while under what his lawyers called a "racist indictment."

Race was undoubtedly involved in the judge's story. When Jimmy Carter nominated him to the federal bench, Collins was a local magistrate known for accepting prostitutes and other gifts from lawyers trying cases in his court, for showing illegal favoritism to his bail-bondsman cousin, and for taking money from corrupt politicians to buy votes. But none of it mattered because Carter wanted "a black judge in the Deep South."

Be Shiftless

A few years ago in London, a white teacher was thrown off a prestigious awards committee for "racist body language." She had looked at her watch during a long recitation by a black. Now this new trend in P.C. has crossed the Atlantic. In an article in the *Washington Post*, black professor Emma Coleman Jordon of Georgetown Law School says that white law students are guilty of "shifting in their seats" when blacks talk.

Calvin Fine

The conservative Westminster Theological Seminary in Philadelphia has been ordered by the Middle States Association of Colleges and Schools to make its board more "representative" in "age, race, ethnicity, gender, and points of view" or lose its accreditation. Middle States also threatened Baruch College in New York City with the same punishment unless it hired more black and Hispanic faculty. Baruch gave in, but the seminary, whose board is made up of conservative male church elders, told Middle States to peddle its P.C. elsewhere.

Helen of Ploy

Helen Caldecott, the crazed environmentalist (or do I repeat myself?), is now recording such eco-ditties as "You Don't Kill Children for Oil." Her music, says *Rolling Stone*, shows America as a "racist, sexist, ageist, looksist, phallocentric, homophobic, anti-semitic, militaristic, pro-business, genocidal, date-raping, child-abusing, earth-destroying society."

Chips

"To everyone but herself, artist-philosopher Adrian Piper looks white—not the pale Anglo-white that yearns for the sun, but white crossed with just enough subcontinent Indian to explain the lack of pallor," writes the *Washington Post*, where it's P.C. to denigrate white people's skin color. Piper's father was one-eighth black, and her mother was what the *Post* calls a "quadroon," one-fourth black. "Piper, however, identifies herself as black," making her "the unintended victim" of "persistent racism in America," the "primary subject of her art."

The 42-year-old Piper, a full professor of philosophy at Wellesley College, is trying to finish her first work in philosophy, but her multi-media art is now on view at the Washington Project for the Arts and the Hirschhorn

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Museum.

Piper's "rapid advance in the halls of academe," helped "by her status as woman and black," led to racism. "A very distinguished professor actually came up to me and said, accusingly, 'You're about as black as I am.'"

So Piper had calling cards printed up to distribute when she heard racist remarks: "Dear Friend: I am black. I am sure you did not realize this when you made/laughed at/agreed with that racial remark. In the past, I have attempted to alert white people to my racial identity in advance. Unfortunately, this invariably causes them to react to me as pushy, manipulative, or socially inappropriate. Therefore, my policy is to assume that white people do not make these remarks, even when they believe there are no black people present, and to distribute this card when they do. I regret any discomfort my presence is causing you, just as I am sure you regret the discomfort your racism is causing me."

One of Piper's works is an empty room with one photograph of a crowd of angry blacks. Another is a video of blacks looking at whites with "melancholy, resignation, and anger." Her major work consists of tape recordings of white remarks played in a dark cylinder, in which whites stand to "excavate and expose the hidden subtext of racism." One of the taped remarks is: "They all have a chip on their shoulder and I'm sick of it."

Advice From the Brits

A writer for the London *Financial Times* says that America is irretrievably and monstrously racist. A Brookings study, for example, shows that "Chicago employers view black inner-city males" as "unstable, uncooperative, dishonest, and uneducated. Employers repeatedly told the researchers that blacks 'don't want to work,' and nearly 40% were prepared to rank blacks as having the worst work ethic of any race." Therefore, quotas are necessary, even if they "limit white opportunity." But eventually the only thing that will really work is "closing the wealth gap" between black and white Americans by "requiring the transfer to blacks of some $695.8 billion."

Modals Aren't Anti-Religious

Four hundred self-described witches, pagans, and druids recently met near the Fairburn, Ga., Waffle House for the 13th annual Gathering of the Tribes, reports Jeff Kunerth of the *Orlando Sentinel*. Delegates to the conference sold books and crystals, probably eyes of newt, and held workshops and panel discussion.

One of the druids, Lord Rhuddlwan Gawr (Bob in secular life) said they were there to "escape" from a world that is "crooked and full of killing."

There were feminist witches with such names as Morning Glory and Lady Amber, but "many of us are techno-pagans," said Isaac Bonewits, a computer consultant from New Jersey, who uses "multi-media" techniques when casting spells.

"We are all one family with the universe," said Otter G'Zell, founder of the Church of All Worlds based on Robert Heinlein's science fiction novel, *Stranger in a Strange Land*. "Life is the mating of Father Sun and Mother Earth."

Timothy Zell, his name among the non-heathen, is a psychologist who says he founded the Gaia movement, which sees the earth as a "living organism." "I was the first to spell it out in a biological equation."

Normal Norming

The State Department wanted to get a more P.C. batch of foreign service officers, but minorities and women were passing the grueling entrance exam at only about half the rate of white males. Because the foreign language exam hurt minority scores, it was eliminated (for the *foreign* service). But since women did better on that part of the exam than men, taking it out lowered women's scores. To solve that, the English exam—on which women score better than men—was given more weight. But that hurt minority applicants. What to do? Gender and race norming were made the rule. Each group was given its quota, and members compete only against each other.

The Department of Labor also promotes "within-group score conversion" as race norming is called there, both on its own examinations and those it designs for state employment services. People compete only within their own group, and not with all test takers. For example, to be ranked in the 99th percentile on one popular

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employment exam, a white would have to score 405, a Hispanic 382, and a black 355. This has "not always been made clear" to employers, says the *New York Times*.

Segregation for Ever

"I believe in 'separate but equal,'" says Weldon Jamison, a student at black Southern University in Louisiana. "I don't want to see this school shared by anyone." At the campus bookstore, the best selling t-shirt reads, "The Blacker the College, the Better the Knowledge." We must have black universities, adds the president of Southern, Dolores Spikes, because "whites are socially and culturally deprived."

Ma, He's Making Eyes at Me

We've all heard about Dr. Frances Conley, the neurosurgeon who resigned from a full professorship at Stanford Medical School because of "rampant sexism" among male surgeons. The other morning I heard her interviewed on radio, and when she was asked for an example of a sexist crime, this is the story she told: she was performing surgery and a male colleague asked, "How's it going, honey?" All her "authority was suddenly gone" because he had put her on the same level as the nurses, who were also "honeys."

Huh? If it bothered her, why not some snappy comeback like "Great, darling"? Was she an affirmative-action appointee whose attendant lack of self respect finally got to her?

The *Washington Post* described her as tops because she had been "elected to the Academic Senate three times." The reporter knows that sounds impressive to most people. But real scholars run away from these "Senates." Good professors have their fill of departmental committee work; they don't seek out membership in the university-wide Committee From Hell.

Blood and Soil

Sen. Wyche Fowler (D.-Ga.) has introduced the first P.C. farm legislation: the Minority Farmers Rights Act of 1991. This bill would make it a goal of the federal government to increase to 1910 levels the percentage of minority-owned farmland. If a black, Hispanic, Eskimo, or Indian wanted to sell his land to a white, the feds would "discourage" it, while "encouraging" whites to sell their land to members of official victim groups, thus making the agricultural land market much less liquid for everyone.

Seattle Revisionism

Environmentalists love, and I hate, the famous letter of the 19-century Chief Seattle, with its lines like "the earth does not belong to man; man belongs to the earth"; "sell the land? How can we sell the sky?"; "man is but a thread in the web of life"; and "I have seen ten thousand buffalo lying dead on our prairies, shot by the white man from trains."

Now it turns out that the letter, like virtually every other arrow in the environmentalists' quiver, is crooked. A research librarian in the State of Washington realized that there have never been any prairies nor buffalo in that state, nor any trains until 15 years after the chief's death.

The real author turns out to be screenwriter Ted Perry, who concocted it for an ABC environmental "documentary" in 1971; Perry says ABC is responsible for the credit, but he is sorry too. Now teaching at liberal Middlebury College, Perry apologizes for the "arrogance of thinking that a white man could write a Native American speech."

Just Plain Scouts

A few years ago, some blacks accused the Boy Scouts of insensitivity. Calling young black kids "boys" was racist, and the organization should change its name to the Scouts. Now the parents of an eight-year-old girl in Miami want the "boy" deleted too. They are suing the Boy Scouts to make them coed. Two other sets of parents, atheists this time, are suing to outlaw the Boy Scout requirement of a belief in God. And a gay man in Los Angeles is suing to overturn the Boy Scout's rule against gay scoutmasters. The ACLU—beloved of Modal Libertarians—is handling all these suits, to destroy a private organization's right to make its own rules. It's called civil liberties.

Abort the ACLU

Rockford Institute's *Religion & Society Report* notes that the general counsel for Operation Rescue was ordered during a trial not to use the words "kill, killer, baby killer, fetus, murder, manslaughter, holocaust, genocide, Nazi, Hitler, baby, abortion,

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or Rescuer," or to make any reference to God. Each offense was to be punished by five days in jail and a $500 fine. When he disobeyed, the attorney was sentenced to 90 days in jail and a $10,000 fine. When he couldn't pay the fine, his sentence was extended to 200 days.

The ACLU agreed with the judge. But it's not hard, says the *R&SR*, to envisage this destructive organization's reaction to a judge ordering the general counsel for Greenpeace not to mention "dolphin, dolphin slaughter, global impact, oil spill, disaster, ecology, or Greenpeace."

Yes, Thur!

Resigning Supreme Court Justice Thurgood Marshall held a press conference and urged Bush not to use race as a "ploy" in picking his successor. "I mean picking the wrong Negro." But when a reporter asked "Are black people...," Marshall interrupted, "I am not a 'black people,' I am an Afro-American. Now, do you want to talk about Afro-Americans?"

AIDS II

An Atlanta man, Jerrod Beasley, has filed suit against his apartment complex. The charge: that Judy Allison, the manager, barred Beasley's former roommate from swimming in the pool "just because he had AIDS."

When the AIDS-infected man with the characteristic lesions was ordered out, Beasley screamed that his friend's "human rights have been violated." Worse, the manager mentioned that another swimmer, a pregnant woman, might have been endangered, and wondered if the pool might have to be drained and sterilized. "Everyone knows," says Beasley, that you can't get AIDS in a swimming pool, and he phoned the Lambda Legal Defense Fund, which is handling the suit.

"I feel like prejudice and ignorance and fear were holding hands that day," said Beasley. Adds Evan Wolfson, the Lambda lawyer: "There is a serious problem of discrimination against people with the HIV virus." The suit charges various civil rights and housing violations, as well as discrimination against the handicapped, AIDS being an official federal handicap.

Could this be a staged incident? Nah, the Lambda would never lay down with the lyin'. But why is it ridiculous to worry that a disease might be transmitted this way? Even if the government is—against all precedent—telling the truth about AIDS, these poor people are sick because their immune systems are suppressed. As a result, they have a host of virulent diseases—which are what actually kill them—and *these* diseases can indeed be transmitted by "casual" contact.

Would anyone complain about an apartment manager tossing a typhus patient out of the pool? Would we hear about "civil rights"? And speaking of rights, what about the real rights of the property owner? Unless renters' leases allow their diseased friends to swim in the pool, the manager has the right, as the owner's representative, to make whatever rules are necessary to protect the health of the other tenants. Why is this controversial? ●

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